

Remarks and Arguments

Claims 1-22 were pending in the application. No amendments have been made and claims 1-22 remain pending.

Claims 1-3, 5-16 and 18-19 are rejected under § 103 as obvious of Maggenti U.S. Patent Application Publication No. US 2003/0012149 A1 in view of Szurkowski U.S. Patent No. 6,417,933.

Applicant respectfully traverses this rejection as follows.

There is a fundamental difference between the primary reference Maggenti and Applicant's claimed invention. Maggenti describes "pre-registration" of its "net members" and their "authorized communication devices." In contrast, Applicant claims a method of processing a request for a PTT session with a destination network computer which is "not registered."

The Examiner relies upon three sections of Maggenti, namely the "abstract, Sections 0015, and 0203-0343" for allegedly describing a method of processing a request which identifies a destination network computer that is "not registered." However, after careful review of the entire reference, Applicant believes that none of these three sections (nor any other portion of the references) supports the Examiner's assertion.

Maggenti teaches a communications system that enables a plurality of different types of communication devices (CDs) to engage in group communications as long as each of the CDs engaged in the communication is registered with a communications manager (CM). A key underlying assumption, expressly stated throughout the Maggenti application, is that each of the plurality of CDs is registered with the CM prior to the initiation of any communication session. In this context, the CM is fulfilling the role of a centralized call server that coordinates the communications between a plurality of registered CDs.

In the Background section, Maggenti identifies a problem with known point-to-multipoint communications, namely that they do not allow communications between different types of communication networks:

"In other words, the point-to-multipoint communications do not extend from a CDMA communications system, for

example, to other communication networks or technologies, such as a GSM communication system, a Public Switched Telephone Network (PSTN), a data network, such as the Internet, or to a satellite communication system, such as the GlobalStar™ satellite communication system.” (Maggenti at [0010].)

Then, in the immediately following Summary of the Invention section, Maggenti describes a Communications Manager (CM) that “enables data packets from the data network to be distributed to various *net members of each defined net*” and further describes the CM as “a device which acts as a configurable switch, connecting communications *from one user to one or more other users defined as a net.*” (*Id.* at [0014] emphasis added.) Then, in the next paragraph [0015], which is one relied upon by the Examiner, Maggenti describes how the CM “allows *users* other than those in the *wireless* communications system to participate in group communications” with other *types* of communications systems such as a terrestrial wireless communications systems, a satellite communications system, and other communications systems for paging devices, portable or desktop computers, digital cameras, video cameras, etc. where the transmission is “among *net members* over the data network, coordinated by the CM.” (*Id.* at [0015] emphasis added.)

Thus, both the express language of relied upon paragraph [0015] and the preceding paragraphs [0010-0014] establish that Maggenti is describing a system in which members registered with the CM are able to communicate with each other even though they utilize different communication systems (and the CDs corresponding to those different communications systems).

Similarly, this is the context for the disclosure in the Abstract, also relied upon by the Examiner. As stated therein, “the Communications Manager further allows users of *other communications systems and devices* to participate in group communications with each other.” (*Id.* at Abstract emphasis added.)

The Detailed Description in Maggenti is replete with references to the requirement that the communications are allowed only between pre-registered members. See for example:

- “The CM processes data packets from a first CD and distributes the data packets in real-time to at least one other CD who is a *member* of the same pre-defined net as the first CD. The CM acts as a configurable switch able to route communications *from any net member to other net members defined by the net.*” (*Id.* at [00323] emphasis added.)
- “One embodiment of the system and method for providing group communications services is illustrated in functional block diagram format in Fig. 2. Shown is group communication system 200” wherein “a group of communication device users, individually known as *net members*, communicate with one another using a communication device *assigned* to each net member.” (*Id.* at [0037] emphasis added.)
- “The term ‘net’ denotes a group of communication device users *authorized to communicate with each other.* Generally, a central database contains information *identifying the members* of each particular net.” (*Id.* at [0038] emphasis added.)
- “In order to participate in group communications, CDs 202, 204, 206, 208 and 210 are each equipped with a means for requesting a transmission privilege from a Communications Manager (CM) 218, as explained in greater detail below. CM 218 manages the real-time and administrative operation of nets, including PTT request arbitration, maintenance, and distribution of *net membership and registration lists*, call-set up and tear-down of necessary system and network resources, as well as overall control of net status.” (*Id.* at [0041] emphasis added.)
- “CM 218 maintains a list of defined nets...” (*Id.* at [0042].)
- “If no net member is currently assigned the transmission privilege, the requesting user is granted the transmission privilege and is notified by an audible, visual or tactile alert through the CD. After the requesting user has been granted the transmission privilege, information may then be transmitted from the user *to the other net members.*” (*Id.* at [0045] emphasis added.)

- “Each *net member* receives communications from other *net members* over the dedicated channel.” (*Id.* at [0045] emphasis added.)
- “When a *first member* wishes to transmit information to *other members* of the net,...” (*Id.* at [0047] emphasis added.)
- “If no other member currently holds a transmission privilege...CM 218 transmits a message to the requesting net member, notifying it that the transmission privilege has been granted. Audio, visual or other information *from the first net member* may then be transmitted to the *other net members*...” (*Id.* at [0048] emphasis added.)
- “In one embodiment, CM 218 maintains one or more databases for managing information pertaining to individual *net members* as well as to each defined net. For example, *for each net member*, one database may comprise a user name, an account number, a telephone number or a dial number associated with the members’ CD, a Mobile Identification Number assigned to the CD, the current member status in the net, such as whether the member is actively participating in the net, a priority code for determining how the transmission privileges are assigned, a data telephone number associated with the CD, *an IP address associated with the CD*, and an indication of which nets the member is authorized to communicate. Other related types of information may also be stored by the database with respect to each net member.” (*Id.* at [0050].)
- “One traffic channel is allocated per registered CD while a net is active, i.e., media being transferred *between members*.” (*Id.* at [0060] emphasis added.).

Each of the above paragraphs continually reinforces the central theme of Maggenti, that pre-registration with the CM of all members is required, and only members can receive communications from other members. Also the CM contains a database with addresses of authorized CDs, so there would be no unknown destination address that requires resolution.

Finally, the Examiner relies on [0203-0343]. This section describes how, for the previously defined communications between registered members, two application level protocols, the Session Initiation Protocol (SIP) and Net Broadcast Media Signaling, can be used for call signaling and call set up. (*Id.* at [0204].) Again, according to the described protocols “to join a net, a CD 202 invites the net, by name, to participate in a call, through a top-level SIP server.” (*Id.* at [0206].) Maggenti refers to DNS name resolution for this top-level SIP server, through which CD 202 determines the IP address of the SIP server. (*Id.* at [0207].) Further, “prior to attempting to join the net, CD 202 may place a call using the SIP INVITE method to request an updated list of available nets.” (*Id.* at [0208].) In response to the invite request, “CM 218 queries its net database for an address which lists the requesting CD as a defined *member* to form the response to the invite request.” (*Id.* at [0241] emphasis added.) Still further, the destination must be a valid (pre-registered) net address before it grants the invitation: “CM 218 should confirm that the invited To: address is indeed a valid net address before it grants the invitation.” (*Id.* at [0276].).

A real-time call does not take place until the registered CD has successfully negotiated entry into the current membership list of a net: “After CD 202 has successfully negotiated entry into the current membership of a net using SIP, real-time call control takes place through point-to-point application level media signaling messages exchanged between each CD and the net’s MCU.” (*Id.* at [0334].) And finally, if CD 202 is not listed as a net participant, it is not allowed to submit media signaling requests for the net: “...CD 202 is not listed as a net participant and hence is not allowed to submit media signaling requests for the net.” (*Id.* at [0342].)

Thus, the entire section relied upon by the Examiner repeatedly confirms the requirement that only pre-registered net members having an assigned CD device are allowed to communicate with one another.

In contrast, Applicant’s claim 1 describes processing of a request for a destination network computer that is “not registered” with the PTT server.

Thus, the Examiner’s assertion that “Maggenti et al. fails to teach a public data network and unique identifier for the priority date of 6/5/1998” is an incomplete

identification of the elements missing from Maggenti. As a result, the obviousness rejection is not proper.

Nor does the secondary reference Szurkowski cure the deficiencies of Maggenti.

The Examiner bears the burden of initially establishing a *prima facie* case of obviousness. MPEP § 2142.. MPEP §2143 provides the standard required for establishing a *prima facie* case of obviousness. "First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine what the reference teaches. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim limitations." The motivation to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not the Applicant's disclosure. *In re Vaack*, 200 USPQ2d 1438, 1442 (Fed. Cir. 1991). The references must be considered as a whole and suggest the desirability, and thus the obviousness of making the combination. *Hodosh v. Block Drug Col., Inc.*, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986); MPEP §2141.

The PTO has not met its burden in the instant case because a skilled person would not be motivated to combine Szurkowski with Maggenti, nor would the asserted combination teach or suggest all the claim limitations.

The references themselves teach against the combination. Maggenti describes prior art conference call group communications accomplished by a conference bridge, as being different from and not providing the benefits of the alleged invention. In [0036] Maggenti describes a conference call communications systems of the type shown in Fig. 1 wherein conference calls between multiple users in a wireless communication system can be achieved if special circuitry is employed within MSC112. Maggenti then distinguishes a conference call from "group communications" in that conference calls are generally not arbitrated, i.e., conference call users may speak simultaneously and be heard by all other conference call users. In contrast, Maggenti then goes on to provide a general overview of its alleged invention, in the immediately following [0037], and describes with reference to communications system 200 in Fig. 2, an arbitrated PTT

communications system allowing group communications between CDs and authorized net members based on a net membership and registration list maintained by CM 218.

Where Maggenti itself distinguishes non-arbitrated (i.e., conference call systems as distinct from Maggenti's "group communications", the Examiner's alleged combination of Maggenti with Szurkowski, the latter of which describes a teleconference communications system, is improper on its face.

Still further, the disclosure of Szurkowski, even if combined, does not cure the deficiencies of Maggenti. Instead, Szurkowski describes a combined teleconference and facsimile service in which participants in the teleconference are initially asked to provide facsimile numbers for their current location in the event they wish to receive facsimiles during the teleconference. (*Id.* at column 7, lines 7-11.) After receiving the facsimile numbers from the conference attendees, coordinating unit 134 passes the information onto a facsimile bridge 150, making the facsimile numbers available to all attendees. (*Id.* at column 7, lines 23-29.) Thus, in Szurkowski the users themselves provide the destination addresses. Even if Szurkowski teaches a unique identifier of a destination computer, it is in an unrelated type of system, and this system is specifically distinguished by the primary reference as being inapplicable to the primary reference. This fails to constitute a proper obviousness rejection.

All of the other Examiner's obviousness rejections rely on Maggenti as the primary reference and Szurkowski as the secondary reference, and further rely on one of three additional references, namely:

- Kaneko U.S. Patent Application Publication No. 2005-0221842;
- Crockett U.S. Patent Application Publication No. 2003-0154249;
- Mumick U.S. Patent Application Publication No. 2005-0136955.

None of these other three references cure the deficiencies of the primary and/or secondary references.

Kaneko is simply relied on as teaching that a SIP-URI can be further resolved into an IP address and port number for receiving PTT sessions at the destination network. This fails to render obvious the method recited in claim 1, for the reasons previously described.

Crockett is relied on merely as teaching a resource record. Again, Crockett's use of a resource record for identifying a member does not cure the deficiencies of the other references.

Mumick is relied on as teaching a recorded message; again this single feature cannot cure the deficiencies of the primary and secondary references.

In summary, the core difference between the primary reference Maggenti and the present claims is that Maggenti requires pre-registration of every CD with the CM. In contrast, Applicant claims a destination network computer that is not "registered" with the PTT server. Still further, Maggenti expressly distinguishes and teaches away from teleconference systems, the subject matter of the secondary reference Szurkowski. Therefore, there can be no *prima facie* case of obviousness.

Accordingly, Applicant respectfully requests withdrawal of these rejections.

RECONSIDERATION

It is believed that all claims of the present application are now in condition for allowance.

Reconsideration of this application is respectfully requested. If the Examiner believes that a teleconference would expedite prosecution of the present application the Examiner is invited to call the Applicant's undersigned attorney at the Examiner's earliest convenience.

Any amendments or cancellation or submissions with respect to the claims herein is made without prejudice and is not an admission that said canceled or amended or otherwise affected subject matter is not patentable. Applicant reserves the right to pursue canceled or amended subject matter in one or more continuation, divisional or continuation-in-part applications.

To the extent that Applicant has not addressed one or more assertions of the Examiner because the foregoing response is sufficient, this is not an admission by Applicant as to the accuracy of such assertions.

Please grant any extensions of time required to enter this response and charge any fees in addition to fees submitted herewith that may be required to enter/allow this response and any accompanying papers to our deposit account 02-3038 and credit any overpayments thereto.

Respectfully submitted



Date: 21 Dec 06

Therese A. Hendricks, Esq., Reg. No. 30,389
Rissman Jobse Hendricks & Oliverio, LLP
Customer Number 021127
Tel: (617) 367-4600 Fax: (617) 367-4656